

Message Text

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ACTION IO-13

INFO OCT-01 EUR-12 ISO-00 ACDA-07 CIAE-00 INR-07 L-03

NSAE-00 NSC-05 EB-07 NRC-05 OES-06 DODE-00 ERDA-05

FEA-01 CPR-01 PM-04 H-02 PA-01 PRS-01 SP-02 SS-15

USIA-06 OIC-02 OMB-01 SAJ-01 /108 W

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FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO AMEMBASSY BERLIN UNN

AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

SECSTATE WASHDC 3224

USMISSION IAEA VIENNA

USMISSION NATO

C O N F I D E N T I A L USBERLIN 2129

E O 11652: GDS

TAGS: PFOR PGOV IAEA WB GW FR UK

SUBJ: PROPOSED IAEA SYMPOSIUM IN WEST BERLIN

REF: BONN 17072, USBERLIN 2102

1. PRIVILEGES AND IMMUNITIES ACCORDED IAEA EMPLOYEES
ARE GOVERNED BY AN FRG LAW OF JULY 30, 1960 TAKEN
OVER IN BERLIN WITHOUT ALLIED RESERVATIONS. (SEE
GESETZ-UND VERORDNUNGSBLATT FUR BERLIN, YEAR 16, NO. 52,
11 OCTOBER 1960). ACTUAL PRIVILEGES AND IMMUNITIES
ARE OF COURSE THOSE ACCORDED OTHER UN SPECIAL ORGANIZATION
MEMBERS IN THE 1957 VIENNA CONVENTION.

2. THERE FOLLOWS FULL TEXTS OF BK/O 75/10 AND BK/L
75/32 OF 7 AUGUST 1975 ON SAME SUBJECT.
BK/O 75/10: "THE ALLIED KOMMANDATURA HAS NOTED
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THAT AN INCREASING NUMBER OF INTERNATIONAL AGREE-

MENTS OR ORDINANCES PROVIDE FOR PRIVILEGES AND IMMUNITIES IN FAVOR OF INTERNATIONAL ORGANIZATIONS THE ACTIVITIES OF WHICH MAY POSSIBLY BE EXTENDED TO BERLIN. THE ALLIED KOMMANDATURA WISHES TO TAKE THIS OPPORTUNITY TO RECALL THAT ALTHOUGH IT MAY APPROVE IN ACCORDANCE WITH ESTABLISHED PROCEDURE THE ADOPTION IN BERLIN OF SUCH INTERNATIONAL AGREEMENTS OR OF SUCH ORDINANCES, THEY CANNOT AFFECT ALLIED RIGHTS AND RESPONSIBILITIES NOR ALLIED LEGISLATION, IN PARTICULAR, ARTICLE III (C) OF THE BERLIN DECLARATION OF 5 MAY 1955 AND OF BK/O (64)4." BK/L 75/32: "THE ALLIED KOMMANDATURA DOES NOT OPPOSE THE EXTENSION TO BERLIN OF CERTAIN INTERNATIONAL AGREEMENTS CONFERRING PRIVILEGES AND IMMUNITIES ON INTERNATIONAL ORGANIZATIONS, LIKEWISE, IT DOES NOT OPPOSE THE PUBLICATION IN BERLIN, AS BERLIN LEGISLATION, OF CERTAIN REGULATIONS GRANTING SUCH PRIVILEGES AND IMMUNITIES IN ACCORDANCE WITH THE LAW OF 22 JUNE 1954 AS AMENDED BY THE LAW OF 28 FEBRUARY 1964.

"THE ALLIED KOMMANDATURA HAS NOTED THE INCREASING NUMBER OF THESE INTERNATIONAL AGREEMENTS OR ORDINANCES AND CONSIDERS THAT IT IS NECESSARY TO RECALL THAT, EVEN IN CASES WHERE NO RESERVATIONS HAVE BEEN EXPRESSLY FORMULATED BY THE ALLIED KOMMANDATURA, THE APPLICATION IN BERLIN OF THESE INTERNATIONAL AGREEMENTS AND ORDINANCES CANNOT AFFECT ALLIED RIGHTS AND RESPONSIBILITIES NOR ALLIED LEGISLATION AND, TO THIS EFFECT, HAS PROMULGATED TODAY BK/O (75)10.

"IN ORDER TO BE IN A POSITION TO TAKE ALL MEASURES DEEMED NECESSARY, THE ALLIED KOMMANDATURA REQUESTS THE SENAT TO INFORM IT AT THE APPROPRIATE TIME OF ALL MEETINGS ORGANIZED WITHIN THE FRAMEWORK OF INTERNATIONAL ORGANIZATIONS IN THE WESTERN SECTORS OF BERLIN."

NOTE: "THE APPROPRIATE TIME" COULD BE CONSTRUED AS OBLIGATING SENAT TO CONSULT PRIOR TO ISSUANCE OF INVITATIONS. HOWEVER, SENTENCE IN STANDARD VAGUE PHRASE DIFFICULT TO PIN DOWN IN THE EVENT. WE SUSPECT GERMANS WOULD READ IT TO MEAN ALLIES WOULD NEED TO CONFIDENTIAL

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BE INFORMED IN SUFFICIENT TIME TO TAKE CORRECTIVE ACTION.

3. OTHER PERTINENT DOCUMENT IS PARA. H OF BK/L (75)21 GOVERNING PRIVILEGES AND IMMUNITIES IN BERLIN. IT READS: "REPRESENTATIVES OF INTERNATIONAL ORGANIZATIONS IN RESPECT OF WHICH THE FEDERAL REPUBLIC OF GERMANY HAS CONCLUDED AGREEMENTS ON PRIVILEGES AND IMMUNITIES

THAT HAVE BEEN EXTENDED TO BERLIN ENJOY IMMUNITY TO THE EXTENT PROVIDED FOR WITHIN THE RELEVANT AGREEMENTS AND SUBJECT TO RESERVED ALLIED RIGHTS AND RESPONSIBILITIES. THE GERMAN AUTHORITIES MAY EXERCISE JURISDICTION CONSISTENT WITH THOSE AGREEMENTS BUT SHOULD NOTIFY THAT ALLIED SECTOR AUTHORITIES CONCERNED IMMEDIATELY FROM THE SCENE OF INCIDENTS INVOLVING REPRESENTATIVES OF INTERNATIONAL ORGANIZATIONS WHO ARE CITIZENS OF THE SOVIET UNION OR OTHER EASTERN EUROPEAN COUNTRIES, EXCEPT IN THE EVENT OF MINOR AUTOMOBILE ACCIDENTS. THE LATTER SHOULD BE REPORTED TO THE ALLIES IN ACCORDANCE WITH EXISTING INSTRUCTIONS."

4. UNDER THESE CIRCUMSTANCES, WE QUESTION WHY A SEPARATE AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF SYMPOSIUM PARTICIPANTS WOULD BE REQUIRED. QUESTION IN PARA 5 OF BONN REFTEL ABOUT WHETHER FRG IS COMPETENT TO GRANT PRIVILEGES AND IMMUNITIES IN BERLIN WAS ADDRESSED IN THE DOCUMENTS CITED ABOVE.

5. WE WILL ENDEAVOR SOONEST TO OBTAIN INFORMATION ABOUT PRECEDENTS.

6. EUR/CE MAY WISH TO CONSULT BERLIN LEGAL ADVISER GREENWALD ABOUT ABOVE. HE IS FULLY CONVERSANT WITH ISSUE. GEORGE

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